



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 02/18/2013 (Per: CMH)

☞ Compile Draft – Appendix B **... Part II ←**

Appendix A ☞ The 2013 drafting file for LRB-0479

Appendix B ☞ The 2013 drafting file for LRB-1243

Appendix C ☞ The 2013 drafting file for LRB-1248

2013 LRB-1243

has been transferred to the drafting file for

2013 LRB-1485

Part of the compile used to create 2013 AB 40.



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1243/P1

TJD:sac:jf

DHS Comments

DOA:.....Iwata, BB0403A – Incorporate changes to the Medical Assistance program under the Patient Protection and Affordable Care Act; mandatory changes and coverage of childless adults and parents/caretakers to 100% FPL

FOR 2013-2015 BUDGET — NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

MEDICAL ASSISTANCE

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 **SECTION 1.** 49.45 (23) (a) of the statutes is amended to read:

3 49.45 (23) (a) The department shall may request a waiver from the secretary
4 of the federal department of health and human services to permit the department to

1 conduct a demonstration project to provide health care coverage for basic primary
2 and preventive care to adults who are under the age of 65, who have family incomes
3 not to exceed ~~100~~ percent of the poverty line, and who are not otherwise eligible for
4 medical assistance under this subchapter, the Badger Care health care program
5 under s. 49.665, or Medicare under 42 USC 1395 et seq. If the department creates
6 a policy under sub. (2m) (c) 10., this paragraph does not apply to the extent that it
7 conflicts with the policy.

****NOTE: The language in this provision requires DHS to request a waiver. If DHS
seeks to have the option to operate BadgerCare Plus Core instead of being required to
operate it, the changes made to the language in this draft are necessary.

8 **SECTION 2.** 49.45 (23) (a) of the statutes, as affected by 2011 Wisconsin Act 32
9 and 2013 Wisconsin Act (this act), is repealed and recreated to read:


10 49.45 (23) (a) The department may request a waiver from the secretary of the
11 federal department of health and human services to permit the department to
12 conduct a demonstration project to provide health care coverage for basic primary
13 and preventive care to adults who are under the age of 65, who have family incomes
14 not to exceed ~~200~~ percent of the poverty line, and who are not otherwise eligible for
15 medical assistance under this subchapter, the Badger Care health care program
16 under s. 49.665, or Medicare under 42 USC 1395 et seq.

17 **SECTION 3.** 49.45 (23) (b) of the statutes is amended to read:


18 49.45 (23) (b) If the waiver is granted and in effect, the department may
19 promulgate rules defining the health care benefit plan, including more specific
20 eligibility requirements and cost-sharing requirements. Unless otherwise provided
21 by the department by a policy created under sub. (2m) (c), cost sharing may include
22 an annual enrollment fee, which may not exceed \$75 per year. Notwithstanding s.
23 227.24 (3), the plan details under this subsection may be promulgated as an

Summary of Comments on 13-1243_P1 ACA draft comments 2 4 13.pdf

Page: 2

 Number: 1 Author: laphijo Subject: Highlight Date: 2/4/2013 12:13:53 PM

After further thought, the Department has concluded that it's best to use s. 49.45(23) as the statutory vehicle for covering childless adults, since a 12/10/12 FAQ from CMS to Governors indicated states would need to request a demonstration waiver if they expand to less than 133%. Please amend to change to the proposed income limit of 100% of the FPL. Also, we'd prefer to maintain current law that we "shall" request a waiver.

 Number: 2 Author: John Subject: Highlight Date: 2/2/2013 2:54:09 PM

Proposed income limit is 100% FPL

1 emergency rule under s. 227.24 without a finding of emergency. If the waiver is
2 granted and in effect, the demonstration project under this subsection ~~shall~~ may
3 begin ~~on January 1, 2009, or on the effective date of the waiver, whichever is later.~~

****NOTE: This provision indicates that if DHS requests a waiver the operation of
BadgerCare Plus Core is required. The changes to the language in this draft make
operation of BadgerCare Plus Core optional.


4 **SECTION 4.** 49.45 (23) (b) of the statutes, as affected by 2011 Wisconsin Act 32
5 and 2013 Wisconsin Act (this act), is repealed and recreated to read:


6 49.45 (23) (b) If the waiver is granted and in effect, the department may
7 promulgate rules defining the health care benefit plan, including more specific
8 eligibility requirements and cost-sharing requirements. Cost sharing may include
9 an annual enrollment fee, which may not exceed \$75 per year. Notwithstanding s.
10 227.24 (3), the plan details under this subsection may be promulgated as an
11 emergency rule under s. 227.24 without a finding of emergency. If the waiver is
12 granted and in effect, the demonstration project under this subsection may begin on
13 the effective date of the waiver.

14 **SECTION 5.** 49.45 (24s) (a) of the statutes is amended to read:

15 49.45 (24s) (a) The department shall request a waiver from the secretary of the
16 federal department of health and human services to permit the department to
17 provide optional services for family planning, as defined in s. 253.07 (1) (a), under
18 medical assistance, ~~1b adults whose income does not exceed 133 percent of the~~
19 ~~poverty line~~ ² unless otherwise provided by the department by a policy created under
20 sub. (2m) (c) 10. The department shall implement any waiver granted.

21 **SECTION 6.** 49.45 (24s) (a) of the statutes, as affected by 2013 Wisconsin Act
22 (this act) and 2011 Wisconsin Act 32, section 1441bg, is repealed and recreated to
23 read:

 Number: 1 Author: forsaac Subject: Highlight Date: 2/4/2013 10:14:59 AM

 Number: 2 Author: forsaac Subject: Sticky Note Date: 2/4/2013 10:14:46 AM

Please do not make any amendments to the family planning waiver statute. The administration has decided to maintain current law for FPW.

1 49.45 (24s) (a) The department shall request a waiver from the secretary of the
2 federal department of health and human services to permit the department to
3 provide optional services for family planning, as defined in s. 253.07 (1) (a), under
4 medical assistance, to adults whose income does not exceed 133 percent of the
5 poverty line. The department shall implement any waiver granted.


6 **SECTION 7.** 49.46 (1) (a) 15. of the statutes is amended to read:

7 49.46 (1) (a) 15. Any individual who is infected with tuberculosis and meets the
8 income and resource eligibility requirements for the federal Supplemental Security
9 Income program under 42 USC 1381 to 1383d eligibility requirements as determined
10 under the same method as income eligibility is determined for the program under s.
11 49.471.

12 **SECTION 8.** 49.47 (4) (a) 1. of the statutes is renumbered 49.47 (4) (af) and
13 amended to read:

14 49.47 (4) (af) ~~Under~~ Any individual who is under 21 years of age and resides
15 in an intermediate care facility, skilled nursing facility, or inpatient psychiatric
16 hospital; ~~who meets the limitations on resources under par. (b), (bc), or (bm); who~~
17 meets the income requirements as determined under the same method as income
18 eligibility is determined for the program under s. 49.471; ~~and who complies with~~
19 pars. (cm) and (cr) is eligible for Medical Assistance under this section.


20 **SECTION 9.** 49.47 (4) (c) 1. of the statutes is amended to read:

21 49.47 (4) (c) 1. Except as provided in par. (am) and as limited by subd. 
22 eligibility exists if income does not exceed 133 1/3% of the maximum aid to families
23 with dependent children payment under s. 49.19 (11) for the applicant's family size
24 or the combined benefit amount available under supplemental security income
25 under 42 USC 1381 to 1383c and state supplemental aid under s. 49.77 whichever


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 Number: 1 Author: laphijo Subject: Highlight Date: 2/1/2013 2:42:00 PM

ACA does not permit us to apply an asset/resource test to this eligibility group, effective 1/1/14, so this phrase should be struck.

 Number: 2 Author: laphijo Subject: Highlight Date: 2/1/2013 2:42:18 PM

cm and cr are not relevant for a youth under age 21 in an IMD so this phrase should be struck.

 Number: 3 Author: laphijo Subject: Sticky Note Date: 2/1/2013 2:48:31 PM

As drafted, this change has the effect of forcing the state to adopt a higher med needy standard based on the SSI payment level. It also does so without regard to the cap set in federal law, which was noted in subd. 3., which is being repealed in this bill. That could result in us not being able to claim fed match for the med needy. The changes made could stand, but only if we change "higher" to "lower" as indicated on page 5, line 1, to maintain the current med needy income limits.

✓
1 is ~~higher~~ In this subdivision “income” includes earned or unearned income that
2 would be included in determining eligibility for the individual or family under s.
3 49.19 or 49.77, or for the aged, blind or disabled under 42 USC 1381 to 1385. “Income”
4 does not include earned or unearned income which would be excluded in determining
5 eligibility for the individual or family under s. 49.19 or 49.77, or for the aged, blind
6 or disabled individual under 42 USC 1381 to 1385.

7 SECTION 10. 49.47 (4) (c) 3. of the statutes is repealed.

8 SECTION 11. 49.471 (1) (f) of the statutes is amended to read:

9 49.471 (1) (f) “Family income” ~~means the total gross earned and unearned~~
10 ~~income received by all members of a family~~ has the meaning given for “household
11 income” under 42 CFR 43.603 (d). ✓

****NOTE: Since “household” is not used in the BadgerCare Plus statute, I cannot
create a definition for it. Furthermore, the requirements contained in the federal
regulations are more appropriate in a substantive provision. See created section 49.471
(7) (d) in this draft.

12 SECTION 12. 49.471 (4) (a) 1. of the statutes is amended to read:

13 49.471 (4) (a) 1. A pregnant woman whose family income does not exceed 200
14 133 percent of the poverty line.

15 ~~SECTION 13.~~ 49.471 (4) (a) 4. b. of the statutes is amended to read:


16 49.471 (4) (a) 4. b. ~~Except as provided in subd. 4. c., the~~ The individual’s family
17 income does not exceed 200 100 percent of the poverty line ~~and does not include~~
18 ~~self-employment income.~~

19 SECTION 14. 49.471 (4) (a) 4. c. of the statutes is repealed.


20 SECTION 15. 49.471 (4) (a) 5. of the statutes is amended to read:

21 49.471 (4) (a) 5. An individual who, regardless of family income, ~~was born on~~
22 ~~or after January 1, 1990~~, and who, on his or her 18th birthday, was in a foster care
23 placement under the responsibility of 5 state and enrolled in Medical Assistance


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 Number: 1 Author: laphijo Subject: Highlight Date: 2/1/2013 2:25:18 PM


Needs to say lower. See earlier note.

 Number: 2 Author: laphijo Subject: Highlight Date: 2/1/2013 2:29:37 PM


Should be 435.603

 Number: 3 Author: John Subject: Highlight Date: 2/2/2013 6:21:26 PM

Need to modify 49.471(4)(a)4.a. to include reference to dependent child. See comments on page 10, line 4.

 Number: 4 Author: laphijo Subject: Highlight Date: 2/1/2013 3:06:11 PM

This reference to a birthdate must be struck or modified to 1988. The new federal category is available to anyone under age 26 as of January 1, 2014.

 Number: 5 Author: laphijo Subject: Highlight Date: 2/1/2013 3:47:18 PM

This wording has us covering young adults who were in foster care in Wisconsin or other States on their 18th birthday. Proposed federal regulations at 42 CFR 435.150, allow States the option to not cover young adults who were on foster care in other States when they aged out. This issue has not yet been brought before DHS management for a decision. This policy is also a concern of DCF which runs a program providing services to assist these same youths in obtaining education and jobs. A portion of the youths they serve have moved here from other states. To give the department time to decide on this policy, the following wording is suggested (not sure how to define "Medicaid" for youths in other states):

"...was in a foster care placement under the responsibility of the state of Wisconsin, or at the option of the department, under the responsibility of another State, and enrolled in Medicaid..."

1 under this subchapter, as determined by the department. The coverage for an
2 individual under this subdivision ends on the last day of the month in which the
3 individual becomes ~~21~~ 26 years of age, unless he or she otherwise loses eligibility
4 sooner.

***NOTE: Please note that the language in the request for this provision is not the current version of the statute. The current version is amended in this draft as requested.

5 **SECTION 16.** 49.471 (4) (b) 1. of the statutes is repealed.

6 **SECTION 17.** 49.471 (4) (b) 1m. of the statutes is repealed.

7 **SECTION 18.** 49.471 (4) (b) 2. of the statutes is repealed.

8 **SECTION 19.** 49.471 (4) (b) 3. of the statutes is amended to read:


9 49.471 (4) (b) 3. A child whose family income exceeds 200 percent but does not
10 exceed 300 percent of the poverty line. ~~For a child under this subdivision who is an~~
11 3m. An unborn child, ~~if a pregnant woman whose income exceeds 133 percent~~
12 of the federal poverty line, except benefits are limited to prenatal care.

***NOTE: There is no statutory reference in Wisconsin law for CHIP. If CHIP is run as a separate program, then this language should be in a separate section. If CHIP funding is passed through BadgerCare Plus, is this language sufficient to accomplish the intent of the request?

***NOTE: I do not understand the reference in the draft request to the definition of "unborn child." What does "modification" mean? Does it mean to replace the definition or add to the definition? Also, please provide a reference to the federal law or regulation that provides the eligibility criteria for CHIP for an unborn child.

13 **SECTION 20.** 49.471 (4) (b) 4. (intro.) and a. of the statutes are consolidated,
14 renumbered 49.471 (4) (b) 4. and amended to read:


15 49.471 (4) (b) 4. An individual who satisfies all of the following criteria: a. The
16 individual is a parent or caretaker relative of a child who is living in the home with
17 the parent or caretaker relative or who is temporarily absent from the home for not
18 more than 6 months or, if the child has been removed from the home for more than

 Number: 1 Author: laphijo Subject: Highlight Date: 2/1/2013 4:22:23 PM

Paragraph (4)(b) relates to who is eligible for benchmark plan benefits. For this reason 3m. should be referring to unborn children with incomes over 200%, up to 300% FPL.


 Number: 2 Author: laphijo Subject: Highlight Date: 2/1/2013 3:58:49 PM

I don't remember the legal arguments, but I seem to remember that the DHS/LRB attorneys determined that we needed to refer to the unborn children without reference to the pregnant woman. They are defined very specifically in 49.471(1)(k).

 Number: 3 Author: laphijo Subject: Highlight Date: 2/4/2013 11:32:47 AM

CHIP eligibility is passed through BadgerCare Plus. After thinking about this some more, I think we don't have to modify the unborn child definition. If the mother is no longer medicaid eligible (i.e., no longer eligible under subchapter IV) as a pregnant woman because her income is over 133% FPL, then as long as she meets the other conditions in 49.471(1)(k)5., the unborn child is eligible and the unborn child policies apply to the mother. For this reason, I think we only have to add a new d. to 49.471(1)(k)5. that says the mother's family income is over 133% FPL.

We have identified another problem. Under 49.471(3), we said if waiver granted, anyone eligible under (4), is not eligible under 49.46 or 49.47, etc. It worked because we raised income limits for everyone under BadgerCare Plus (BC+). If we bring PW down to 133% in BC+, then they would still be eligible under 49.46(1)(am) or 49.47(4)(am) which still has 185% FPL eligibility. I think for this to work, we will need to amend both (am) sections to say 133%. The other reason to amend the (am) sections is that they are referred to in 49.47(4)(c) which establishes med needy & spenddown eligibility.

 Number: 4 Author: laphijo Subject: Highlight Date: 2/2/2013 3:07:03 PM

(4)(b)4. should be repealed since this pertains to eligibility for self-employed parents in the benchmark plan when they have income over 200% FPL. We will no longer cover parents over 133%.

1 6 months, the parent or caretaker relative is working toward unifying the family by
2 complying with a permanency plan under s. 48.38 or 938.38.

3 SECTION 21. 49.471 (4) (b) 4. b. of the statutes is repealed.

4 SECTION 22. ~~49.471 (4) (b) 5. of the statutes is created to read:~~

5 ~~49.471 (4) (b) 5. An individual who is an adult, who is under 65 years of age,~~
6 ~~who is not pregnant and does not have children; and whose family income does not~~
7 ~~exceed 100 percent of the poverty line.~~

8 SECTION 23. 49.471 (5) (b) 1. of the statutes is amended to read:


9 49.471 (5) (b) 1. Except as provided in sub. (6) (a) 1., a pregnant woman is
10 eligible for the benefits specified in par. (c) during the period beginning on the day
11 on which a qualified provider determines, on the basis of preliminary information,
12 that the woman's family income does not exceed 300 133 percent of the poverty line
13 and ending on the applicable day specified in subd. 3.

14 SECTION 24. 49.471 (5) (b) 2. of the statutes is renumbered 49.471 (5) (b) 2.
15 (intro.) and amended to read:


16 49.471 (5) (b) 2. Except as provided in sub. (6) (a) 2., a child who is not an unborn
17 child is eligible for the benefits described in s. 49.46 (2) (a) and (b) during the period
18 beginning on the day on which a qualified entity determines, on the basis of
19 preliminary information, that the child's family income does not exceed ~~150 percent~~
20 ~~of the poverty line~~ any of the following and ending on the applicable day specified in
21 subd. 3., unless the federal department of health and human services approves the
22 department's request to not extend eligibility to children during this period:

23 SECTION 25. 49.471 (5) (b) 2. a. to c. of the statutes are created to read:

24 49.471 (5) (b) 2. a. 150 percent of the poverty line for a child who is 6 years of
25 age or older but has not yet attained the age of 28

 Number: 1 Author: laphijo Subject: Highlight Date: 2/4/2013 11:37:34 AM

Per the earlier note, we have concluded that s. 49.45(23) should continue to be the vehicle for covering childless adults. As a result, this section is not needed and should not be created.

 Number: 2 Author: laphijo Subject: Highlight Date: 2/1/2013 5:13:20 PM

Should be 19.

****NOTE: Please confirm that this date range, cutting off at the age of 18, is correct.

1 b. 185 percent of the poverty line for a child who is one year of age or older but
2 has not yet attained the age of 6.

3 c. 300 percent of the poverty line for a child who is under one year of age.

4 **SECTION 26.** 49.471 (5) (b) 3. a. of the statutes is amended to read:

5 49.471 (5) (b) 3. a. If the woman or child applies for benefits under sub. (4)
6 within the time required under par. (d), the benefits specified in subd. 1. or 2.,
7 whichever is applicable, end on the day on which the department or the county
8 department under s. 46.215, 46.22, or 46.23 determines whether the woman or child
9 is eligible for benefits under sub. (4), except that a child who is not an unborn child
10 is not eligible for benefits described in s. 49.46 (2) (a) and (b) during that time if the
11 federal department of health and human services approves the department's request
12 not to provide those benefits during that time.

13 **SECTION 27.** 49.471 (5) (c) 1. of the statutes is renumbered 49.471 (5) (c) and
14 amended to read:


15 49.471 (5) (c) On behalf of a woman under par. (b) 1. ~~whose family income does~~
16 ~~not exceed 200 percent of the poverty line~~, the department shall audit and pay
17 allowable charges to a provider certified under s. 49.45 (2) (a) 11. only for ambulatory
18 prenatal care services under the benefits described in s. 49.46 (2) (a) and (b).

19 **SECTION 28.** 49.471 (5) (c) 2. of the statutes is repealed.

20 **SECTION 29.** 49.471 (7) (a) of the statutes is repealed.

21 **SECTION 30.** 49.471 (7) (b) 1. of the statutes is amended to read:

22 49.471 (7) (b) 1. ~~A~~ Eligibility for a pregnant woman whose family income
23 exceeds 100 percent of the poverty line may become eligible for coverage under this
24 section if the difference between the pregnant woman's family income and the

 Number: 1 Author: John Subject: Highlight Date: 2/2/2013 3:15:07 PM

This is the provision for medically needy spenddowns. It should refer to the proposed Medicaid income limit of 133% FPL.

1 applicable income limit under sub. (4) (b) is obligated or expended for any member
2 of the pregnant woman's family for medical care or any other type of remedial care
3 recognized under state law or for personal health insurance premiums or for both.
4 Eligibility obtained under this subdivision continues without regard to any change
5 in family income for the balance of the pregnancy and to the last day of the month
6 in which the 60th day after the last day of the woman's pregnancy falls. Eligibility
7 obtained by a pregnant woman under this subdivision extends to all pregnant
8 women in the pregnant woman's family is determined under the method described
9 in s. 49.47 (4) (c).

****NOTE: I was unsure what the instruction to "delete and replace with a reference
to 49.47 (4) (c)" meant. Please review the changes to this subdivision and subd. 3. to
ensure they comply with your intent.



10 **SECTION 31.** §9.471 (7) (b) 3. of the statutes is amended to read:

11 49.471 (7) (b) 3. For a pregnant woman to obtain eligibility under subd. 1., the
12 amount that must be obligated or expended in any 6-month period is equal to the
13 sum of the differences in each of those 6 months between the pregnant woman's
14 monthly family income and the monthly family income that is 300 percent of the
15 poverty line. For a child to obtain eligibility under subd. 2., the amount that must
16 be obligated or expended in any 6-month period is equal to the sum of the differences
17 in each of those 6 months between the child's monthly family income and the monthly
18 family income that is 150 percent of the poverty line.


19 **SECTION 32.** 49.471 (7) (c) of the statutes is repealed.

20 **SECTION 33.** 49.471 (7) (d) of the statutes is created to read:

21 49.471 (7) (d) For the purpose of determining family income, the department
22 shall apply the regulations defining a household under 42 CFR 435.603 (f). To


 Number: 1 Author: John Subject: Highlight Date: 2/2/2013 3:22:46 PM

I think these changes will work if we make the changes I mentioned in my comments on page 6, line 12.

 Number: 2 Author: John Subject: Sticky Note Date: 2/2/2013 5:30:32 PM

Since we are dropping coverage for children over 300% FPL, we need to show that we would cover them under med needy spenddowns. to do that I suggest changing subd. 2. to say something like:

"2. A child who is not an unborn child, whose family income exceeds 150 percent of the poverty line, and who is ineligible under this section solely because of sub. (8) (b), or whose family income exceeds 300 percent of the poverty line, may obtain eligibility under this section if the difference between the child's family income and 150 percent of the poverty line is obligated or expended on behalf of the child..."

 Number: 3 Author: forsaac Subject: Highlight Date: 2/4/2013 11:40:53 AM

1 determine the family size for a pregnant woman, the department shall include the
2 pregnant woman and the number of babies she is expecting.

3 **SECTION 34.** 49.471 (7m) of the statutes is created to read:

4 ~~29.471 (7m) DEPENDENT CHILDREN. For purposes of determining eligibility for~~
5 ~~BadgerCare Plus, the department may elect to consider a dependent child to be one~~
6 ~~of the following:~~

7 (a) An individual who is under the age of ~~18~~

8 (b) An individual who is age 18 and a full-time student in secondary school or
9 equivalent vocational or technical training if before attaining the age of 19 the
10 individual is reasonably expected to complete the school or training.

11 **SECTION 35.** 49.471 (8) (d) 1. b. of the statutes is amended to read:

12 49.471 (8) (d) 1. b. A child described in sub. (4) (a) 2. ~~or (b) 2.~~

13 **SECTION 36.** 49.471 (9) (a) 2. b. of the statutes is amended to read:


14 49.471 (9) (a) 2. b. A child described in sub. (4) (a) 2. ~~or (b) 2.~~

15 **SECTION 37.** 49.471 (10) (b) 1. of the statutes is amended to read:

16 49.471 (10) (b) 1. Except as provided in subd. 4., a recipient who is an adult,
17 who is not a pregnant woman, and whose family income is greater than 150 percent
18 but not greater than 200 percent of the poverty line shall pay a premium for coverage
19 under BadgerCare Plus that does not exceed 5 percent of his or her family income.
20 If the recipient has self-employment income and is eligible under sub. (4) (b) 4., the
21 premium may not exceed 5 percent of family income calculated before depreciation
22 was deducted.

23 **SECTION 38.** 49.471 (10) (b) 3. of the statutes is amended to read:

24 49.471 (10) (b) 3. Except as provided in subd. 4., a recipient who is an unborn
25 child, ~~or a pregnant woman eligible under sub. (4) (b) 1.,~~ whose family income is


 Number: 1 Author: John Subject: Highlight Date: 2/4/2013 11:42:11 AM

This is not for the purpose of determining a child's eligibility for BadgerCare Plus but rather an adult's eligibility. Also the department has already decided that the definition includes both parts. We recommend moving the language to (1). It should read more like:

A dependent child is:

(a) An individual who is under the age of 18, or

(b) An individual who is age 18 and a full-time student in secondary school or equivalent vocational or technical training if before attaining the age of 19 the individual is reasonably expected to complete the school or training.

 Number: 2 Author: John Subject: Highlight Date: 2/2/2013 6:19:07 PM

This definition needs to be part of 49.471(1) and it needs to be incorporated into 49.471(4)(a)4.a.

 Number: 3 Author: John Subject: Highlight Date: 2/2/2013 6:17:48 PM

should be "18, or"

greater than 200 percent of the poverty line shall pay a premium for coverage of the benefits described in sub. (11) that does not exceed the full per member per month cost of coverage for an adult with a family income of 300 percent of the poverty line.

SECTION 39. 49.471 (10) (b) 4. b. of the statutes is amended to read:

49.471 (10) (b) 4. b. A child who is eligible under sub. (4) (a) 2. ~~or (b) 2.~~

SECTION 40. 49.84 (6) (c) 1. d. of the statutes is amended to read:


49.84 (6) (c) 1. d. A child who is receiving medical assistance under s. 49.46 (1) (a) 13., 49.47 (4) (am) 3., or 49.471 (4) (a) 2. ~~or (b) 2.~~ or an unborn child receiving prenatal care under s. 49.471.

SECTION 9318. Initial applicability; Health Services.

(1) MODIFIED ADJUSTED GROSS INCOME. The treatment of sections 49.46 (1) (a) 15., 49.471 (1) (f) and (7) (a), (b) 1. and 3., (c), and (d), and (7m) of the statutes first applies to determinations of renewal eligibility for existing Medical Assistance recipients on the effective date of this subsection.

SECTION 9418. Effective dates; Health Services.

(1) PATIENT PROTECTION AND AFFORDABLE CARE ACT CHANGES. The treatment of sections 49.45 (23) (a) (by SECTION 1) and (b) (by SECTION 3), 49.47 (4) (a) 1. and (c) 1. and 3. and (5) (c) 1., 49.471 (4) (a) 1., 4. b. and c., and 5., and (b) 1., 1m., 2., 3., and 5., (5) (b) 1. and 3. a. and (c) 1. and 2., (7) (d), (7m) (a) and (b), (8) (d) 1. b., (9) (a) 2. b., and (10) (b) 1., 3., and 4. b., and 49.84 (6) (c) 1. d. of the statutes, the repeal of section 49.471 (5) (c) 2. of the statutes, the renumbering and amendment of section 49.471 (5) (b) 2. of the statutes, the consolidation, renumbering, and amendment of section 49.471 (4) (b) 4. (intro.) and a. of the statutes, the amendment of section 49.45 (24s) (a) of the statutes, the repeal and recreation of section 49.45 (24s) (a) of the

 Number: 1 Author: John Subject: Highlight Date: 2/3/2013 2:44:18 PM

MAGI takes effect April 1, 2014, for existing Medical Assistance cases which complete their annual renewals by March 31, 2014. For all other existing cases, MAGI takes effect at the time of their next annual renewal. MAGI (under these sections) takes effect on January 1, 2014, for all applicants.

1 statutes, and the creation of section 49.471 (5) (b) 2. a., b., and c. of the statutes take
2 effect on January 1, 2014.

3 (2) MODIFIED ADJUSTED GROSS INCOME. The treatment of sections 49.46 (1) (a) 15.,
4 49.47 (4) (a) 1., 49.471 (1) (f), (7) (a), (b) 1. and 3., (c), and (d), and (7m) of the statutes
5 and SECTION 9318 (1) of this act take effect on ~~March 31, 2014~~.

6 (3) RECONCILIATION WITH 2011 WISCONSIN ACT 32. The treatment of sections 49.45
7 (23) (a) (by SECTION 2) and (b) (by SECTION 4) of the statutes and the repeal and
8 recreation of section 49.45 (24s) (a) of the statutes takes effect on January 1, 2015.

9 (END)

Dodge, Tamara

From: Iwata, Yuko - DOA <Yuko.Iwata@wisconsin.gov>
Sent: Tuesday, February 05, 2013 11:14 AM
To: Dodge, Tamara
Cc: Gauger, Michelle C - DOA
Subject: FW: ACA draft

Hi Tami,

See DHS' response. If you have any questions, please let me know.

Thanks,

Yuko Iwata

Executive Policy and Budget Analyst
Division of Executive Budget and Finance
Department of Administration
(608) 267 - 7980

From: Forsaith, Andrew C - DHS
Sent: Tuesday, February 05, 2013 11:12 AM
To: Iwata, Yuko - DOA
Cc: Gauger, Michelle C - DOA
Subject: RE: ACA draft

Sorry, I didn't get that page 10 comment quite correct.

The provisions regarding dependent children only apply when determining whether a parent/caretaker is eligible under s. 49.471(4)(a)4.a. What we want to do is to say that a child in 4.a. includes

- (a) An individual who is under the age of 18, or
- (b) An individual who is age 18 and a full-time student in secondary school or equivalent vocational or technical training if before attaining the age of 19 the individual is reasonably expected to complete the school or training.

Perhaps this language could be folded directly into 4.a. without a freestanding definition.

From: Iwata, Yuko - DOA
Sent: Monday, February 04, 2013 4:22 PM
To: Forsaith, Andrew C - DHS
Cc: Gauger, Michelle C - DOA
Subject: FW: ACA draft

Hi Andy,

See Tami's questions regarding your comments on her ACA draft. If you have any questions, please let me know.

Thanks,

Yuko Iwata
Executive Policy and Budget Analyst
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From: Dodge, Tamara [<mailto:Tamara.Dodge@legis.wisconsin.gov>]
Sent: Monday, February 04, 2013 4:14 PM
To: Iwata, Yuko - DOA
Subject: RE: ACA draft

Yuko,

I have started to go through the comment on BB0403 (LRB-1243). I have one comment to start with. On page 10 of the draft, DHS comments that they want the “definition” of dependent child put in sub. (1). Definitions in this section are only to be used to define terms that are used in the statute. “Dependent” is only used twice: in 49.471 (4) (d) and (8) (d) 1. c. If I move the “definition” to sub. (1), DHS can use the definition for those two statutory provisions **only**. To use the method for classifying a dependent for all types of eligibility determinations they wish, the provision should be left where it is. What does DHS want to use this “definition” for?

I may have further comments or questions as I continue to go through the draft. I’ll let you know.

Tami

Tamara J. Dodge
Attorney
Wisconsin Legislative Reference Bureau
P.O. Box 2037
Madison, WI 53701-2037
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tamara.dodge@legis.wisconsin.gov

From: Iwata, Yuko - DOA [<mailto:Yuko.Iwata@wisconsin.gov>]
Sent: Monday, February 04, 2013 1:00 PM
To: Dodge, Tamara
Cc: Gauger, Michelle C - DOA
Subject: FW: ACA draft

Hi Tami,

Please find attached DHS’ comments on your ACA drafts. If you have any questions, please let me know.

Thanks,

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From: Forsaith, Andrew C - DHS
Sent: Monday, February 04, 2013 12:16 PM
To: Iwata, Yuko - DOA
Cc: Gauger, Michelle C - DOA
Subject: RE: ACA draft

Here are comments on the ACA drafts. Let us know if you have any questions.

From: Iwata, Yuko - DOA
Sent: Thursday, January 31, 2013 9:34 AM
To: Forsaith, Andrew C - DHS
Cc: Gauger, Michelle C - DOA
Subject: ACA draft

Andy,

Please find attached 2 drafts related to the ACA for your review. If you have any questions, please let me know.

Thanks,

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-1243

Dodge, Tamara

From: Iwata, Yuko - DOA <Yuko.Iwata@wisconsin.gov>
Sent: Wednesday, February 06, 2013 8:31 AM
To: Dodge, Tamara
Subject: FW: Additional Comment on the ACA draft

Hi Tami,

DHS' comments on the ACA.

Thanks,

Yuko Iwata
Executive Policy and Budget Analyst
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From: Forsaith, Andrew C - DHS
Sent: Tuesday, February 05, 2013 5:16 PM
To: Iwata, Yuko - DOA
Cc: Gauger, Michelle C - DOA
Subject: Additional Comment on the ACA draft

Hi Yuko – the eligibility folks are researching Tamara's questions below. In the meantime, could you pass this along to her as well:

In the current draft, in s. 49.471(1)(f), "family income" is defined as "household income under 42 CFR 435.603(d)." The income limit for parents/caretakers is defined under s.49.471(4)(a)4.b. as "The individual's family income does not exceed 100 percent of the poverty line."

Could we amend 4.b. to read, "the individual's family income is less than 100 percent of the poverty line, before application of the 5% income disregard under 42 CFR 603(d)"?

42 CFR 435.603(d) says that household income equals MAGI minus a 5% income disregard. Unless we make the above change, an individual at 105% FPL could qualify for MA. There would also be a coverage overlap between MA and the exchange. The exchange determines eligibility for tax credits down to and including 100% FPL based on MAGI without a 5% disregard.

Tamara asks whether s. 49.45(23) should reference the same family income definition – we think it should and include the same language regarding the 5% disregard as above.

From: Iwata, Yuko - DOA
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Cc: Gauger, Michelle C - DOA
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Sent: Tuesday, February 05, 2013 12:34 PM
To: Iwata, Yuko - DOA
Subject: RE: ACA draft

Yuko,

Thanks, that helps a lot.

I have some questions about the MAGI calculations in the ACA draft (BB0403, LRB-1243). I think I understand what is going on with the initial applicability, but I want to make sure.

As I understand the comments on Page 11, there are 3 categories of individuals with 3 different dates when the MAGI requirements will apply to them.

1. For a new applicant for MA who applies on or after January 1, 2014, for the initial eligibility determination, MAGI applies for that initial eligibility. If someone applies on December 30, 2013, obviously their eligibility would not be determined until after January 1, would MAGI apply to him or her or not? Basically, I am asking whether MAGI applies to an application received on or after January 1 or to an eligibility determination made on or after January 1. I can draft either, I just want to be precise.
2. For an existing MA recipient whose renewal eligibility is completed on or before March 31, 2014, MAGI applies on April 1, 2014. I'm guessing this means that their continued renewal eligibility is contingent on them meeting the income requirements, as calculated using MAGI, on April 1, 2014.
3. For an existing MA recipient whose renewal eligibility determination is completed after March 31, 2014, MAGI applies to them on the date of their renewal eligibility determination.

If this is correct, I am not sure exactly how to draft all of this yet. But, I will figure out a way.

Most of the MAGI calculations are in the definitions (such as family income) and those definitions only apply to BC+. Since DHS is retaining childless adult coverage in Core instead of adding that population to BC+, do we need to link the MAGI calculations to Core? (Such as adding a provision that income eligibility for Core is determined in the same manner as BC+, something broad and simple.) While I am at it, do I need to apply the MAGI calculations to any other MA program to make sure DHS can use this method for any other program?

By the way, I am abbreviating the program under s. 49.471 as BC+ and the program under s. 49.45 (23) as Core.

Other than that, I think the rest of the comments I could implement.

Thanks,
Tami

Tamara J. Dodge

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